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P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

FOLEY & LARDNER  
P.O. BOX 80278  
SAN DIEGO, CA 92138-0278

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**OFFICE OF PETITIONS**

In re Application of  
Shiv Kumar, et al.  
Application No. 09/699,030  
Filed: October 26, 2000  
Attorney Docket No. 030516.0029CON1

ON PETITION

This is a decision on the petition, filed October 14, 2004, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

A review of the record discloses that the application became abandoned for a failure to reply in a timely manner to the non-final Office action mailed September 15, 2003. On October 14, 2004, the present petition and an amendment, including a 3-month extension of time were filed. Although no decision on the petition had been mailed, the amendment filed October 14, 2004 was considered and a final Office action was mailed on October 28, 2004.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

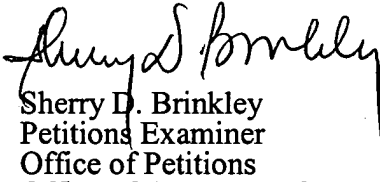
**This decision returns the application to a pending status and ratifies the ensuing prosecution. Accordingly, petitioner is advised that the time period set in the final Office action mailed October 28, 2004, continues to run.**

During a telephone conversation between applicants' counsel, David Lentina, and the undersigned on January 5, 2005, Mr. Lentina authorized the US Patent and Trademark Office to charge the requisite petition fee to his deposit account. Counsel's deposit account will be so charged.

It is noted that petitioner submitted a 3-month extension of time with the present petition. Petitioner is advised that extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Therefore, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the extension fees submitted with the present petition are being credited to counsel's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application file is being forwarded to Technology Center AU 1637 to await a response to the final Office action mailed October 28, 2004.

A handwritten signature in black ink, appearing to read "Sherry D. Brinkley". The signature is written in a cursive style with a long vertical line extending downwards from the end of the name.

Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy